

REMARKS

The Office Action dated October 31, 2005 has been received and carefully noted. No claims have been amended or cancelled, and as such the following remarks are submitted as a full, complete, and timely response thereto. Claims 1-2 and 5 are pending and are submitted for consideration.

The Examiner has indicated that claim 3 is allowed. Applicants appreciate the Examiner's careful consideration and allowance of claim 3.

Claims 1-2, and 5 stand rejected under 35 use §112, second paragraph, as being indefinite. The Examiner has taken the position that the phrase "high performance interconnect links" recited in claim 1 is not defined by the claim, that the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Applicants traverse the rejection and respectfully submit that the phrase "high performance interconnect links" meets the requirements of §112. More particularly, Applicants submit that when a term of degree, such as "high performance" is presented in a claim, a determination is to made as to whether the specification provides some standard for measuring the degree of the term. (See, M.P.E.P. §2173.05.) In the present application, the specification refers to the high performance interconnect as a link that is capable of transmitting signals in the speed range of Ethernet, fast Ethernet, and gigabit Ethernet (See, page 1, last paragraph.), and as such, Applicants submit that the

specification provides a standard for measuring the terminology in the claims. Further, even if Applicants assume that the specification does not provide a standard for measuring the claim terminology, then the determination of whether a term or phrase is definite is made as to whether one of ordinary skill in the art, in view of the prior art and the status of the art at the time the application was filed, would nevertheless have been reasonable apprised of the scope of the invention. (See, M.P.E.P. §2173.05.) Given that the specification focuses on stacking Ethernet, fast Ethernet, and/or gigabit Ethernet SOC's, and that the state of the art at the time the application was filed was focusing upon developing Ethernet, fast Ethernet, and gigabit Ethernet data transmission techniques, Applicants submit that one of ordinary skill in the art would have been reasonably apprised that the high performance link recited in claim 1 is intended to mean a link that is configured to transmit Ethernet, fast Ethernet, and gigabit Ethernet speed data. Thus, Applicants submit that the terminology recited in claims 1, 2, and 5 complies with the requirements of §112, and as such, reconsideration and withdrawal of the §112 rejection is respectfully requested.

Claims 1, 2, and 5 stand rejected under 35 U.S.C. §102 as being unpatentable over *Schwartz* (US Patent No. 6,434,115). The Examiner takes the position that *Schwartz* teaches each and every limitation recited in claims 1, 2, and 5. Applicants traverse the rejection and respectfully submit that claims 1, 2, and 5 recite subject matter that is neither taught nor disclosed by *Schwartz*.

Applicants' claim 1 recites a method for managing congestion in a network switch. The method includes receiving an incoming packet on a first port of a network switch for transmission to a destination port, wherein the network switch is one of a plurality of network switches configured in a stack. The method further includes determining if the destination port is a monitored port, determining a queue status of the destination port, if said destination port is determined to be a monitored port, and prescheduling transmission of the incoming packet to the destination port if the destination port is determined to be a monitored port. Further, the prescheduling transmission step includes dropping the incoming packet only when the queue status of the destination port indicates that a queue for the destination port is full, and the network switches in the stack are connected through high performance interconnect links. Further still, the method includes stripping a module header from packets received via the high performance interconnect links.

Schwartz is directed to a system and method for switching packets in a network. The system and method of *Schwartz* includes switching node for transferring packets, a plurality of input port modules, a plurality of output port modules, a switching fabric, a packet meta-data processor, and a packet switch. Each input port module is connected to a communication link for receiving packets, and each output port module is connected to a communication link for transmitting packets. The input port modules operate to receive and buffer packets to generate a meta-data packet that identifies the specific output port module for the packet, and this information is then passed on to the packet meta-data

processor, which receives the packets and determines if the packet should be passed or dropped based upon the packet and the operational status of the output port modules. When the output port module receives a packet that is to be passed, the output port module transmits the packet over the communication link.

Applicants submit that *Schwartz* fails to teach or disclose each and every element recited in claim 1. More particularly, claim 1 recites “a plurality of network switches configured in a stack.” The switches of *Schwartz* are interconnected in a “nodal” arrangement, which is not equivalent to the recited stack configuration. In a stacked switch configuration, as is generally understood by those skilled in the art, switches are connected such that each switch in the stack is in direct communication with every other switch in the stack. (See, Figure 26, 27, and 28, and Applicants’ specification at pages 99-102.) In a nodal interconnection, as is generally understood by those skilled in the art, several switches are interconnected together, however, each switch is not directly connected to every other switch in the nodal configuration. (See, Figure 1 of *Schwartz*) For example, in the nodal configuration illustrated in Figure 1 of *Schwartz*, switch node 11(2) cannot communicate directly with switch node 11(6). Thus, Applicants submit that *Schwartz* fails to teach or disclose each and every element recited in independent claim 1. As such, reconsideration of the rejection of independent claim 1, along with dependent claims 2 and 5, is respectfully requested.

Further, claim 1 recites that the network switches in the stack are connected to each other through “high performance interconnect links.” Applicants submit that the

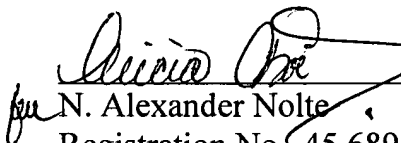
communication interconnects of *Schwartz* are: first, not configured to connect the network switches to each other in a stack configuration; and second, that the communication interconnects are not high performance links. *Schwartz* discloses that the interconnects are “wires, optical fiber links, and so forth” and makes no mention of the links being capable of high performance data (Ethernet, fast Ethernet, and gigabit Ethernet) data transmission. Thus, Applicants submit that *Schwartz* fails to teach or disclose each and every element recited in independent claim 1. As such, reconsideration of the rejection of independent claim 1, along with dependent claims 2 and 5, is respectfully requested.

In conclusion, Applicants submit that claims 1-3, and 5 recite subject matter that is neither disclosed or taught by *Schwartz*. As such, reconsideration of the rejection of claims 1-3, and 5 is respectfully requested.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,


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